



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

**Honorable Tom A. Craven
County Auditor
McLennan County
Waco, Texas**

Dear Sir:

**Opinion No. O-3051
Re: Can a commissioners' court
purchase road machinery
for one precinct, paying
a part of such purchase
price out of 1941 revenues
and issue interest bearing
warrant for payment of bal-
ance of the purchase price
out of the Road and Bridge
Fund revenues for 1942?**

**Your recent request for an opinion of this depart-
ment upon the above stated question has been received.**

We quote from your letter as follows:

**"The Commissioners' Court of McLennan, at
a recent meeting, entered an order on the court
minutes to purchase road machinery for one of
the commissioner's precincts, proposing to pay
a part of the purchase price out of 1941 reve-
nues and handle the balance on a deferred pay-
ment basis, to be paid out of 1942 Road and
Bridge Fund Revenues.**

**"It occurred to me, as county auditor, that
there would possibly be some question whether
or not the Commissioners' Court could legally
contract a debt to be liquidated out of antic-
ipated revenues of a subsequent year and I re-
quested that they withhold consumation of this
transaction, pending legal advise from the
County Judge on the point. The enclosed let-
ter from the County Judge of McLennan County,
addressed to me, resulted.**

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"I shall thank you to advise me whether or not a Commissioners' Court can purchase road machinery for one precinct, paying a part of such purchase price out of 1941 revenues and issue interest bearing warrant or note for payment of balance of purchase price to be paid out of Road and Bridge fund revenues for 1942."

The letter from Honorable D. Y. McDaniel, County Judge, addressed to you, which was enclosed with your inquiry, reads as follows:

"As you know, the Commissioners' Court of this County desires to purchase certain road equipment and machinery for one of the precincts in the County, but such precinct does not have sufficient available funds during the year 1941 to carry on the necessary work in such precinct and fully pay for the equipment which the Court contemplates buying. Such situation raises the following question, to-wit:

"Can Commissioners' Court purchase road machinery for one precinct, paying a part of such purchase price out of 1941 revenues and issue interest bearing warrant or note for payment of balance of purchase price to be paid out of Road and Bridge fund revenues for 1942?"

"In connection with this question I call your attention to Article 11, Section 7, of the Texas Constitution, and also call your attention to the following cases which apparently bear on the subject, as follows:

"City of Terrell vs. Dessaint, 9 S.W. 393; McNiel vs. City of Waco, 33 S.W. 332; Lasater vs. Lopez, 201 S.W. 1041; and, Case of Trashing Machine Company vs. Camp County, 218 S.W. 1.

"By reason of the ruling in the cases above cited as well as Article 11, Section 7, of the Texas Constitution, there is great doubt in my

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mind that the Commissioners' Court can obligate future revenues for the payment of a present obligation in the manner contemplated; however, I feel that this matter should be submitted to the Attorney General for an opinion and I will appreciate it if you will do so."

The above stated question is answered in the affirmative for reasons stated in our Opinion No. 0-1703 (Conference Opinion No. 3098), a copy of which is enclosed for your information. Provided, however, that at the time the contract of purchase is made, a tax is levied to pay the debt and interest thereon as provided in Section 7, Article 11 of the State Constitution. *Austin Bros. v. Montague County*, 291 S.W. 628, 10 S.W. (2d) 718; *Colonial Trust Co. v. Hill County*, 18 S.W. (2d) 787, 27 S.W. (2d) 144; *Colonial Trust Co. v. Hill County*, 294 S.W. 516.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

S/ Ardell Williams
Assistant

AW:RS

APPROVED JAN. 30, 1941
3/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED - Opinion Committee

By BWR - Chairman